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12 Attorneys for Defendant Younique, LLC

13
14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION**

16 MEGAN SCHMITT, DEANA
17 REILLY, CAROL ORLOWSKY, and
18 STEPHANIE MILLER BRUN,
19 individually and on behalf of
themselves and all others similarly
situated,

20 Plaintiffs,

21 v.

22 YOUNIQUE, LLC

23 Defendant.

Case No. 8:17-cv-01397-JVS-JDE

**DECLARATION OF JONATHAN D.
MOSS IN SUPPORT OF
DEFENDANT YOUNIQUE, LLC'S
OPPOSITION TO PLAINTIFFS' EX
PARTE APPLICATION TO
MODIFY SCHEDULING ORDER**

*[Filed Concurrently with Younique's
Opposition to Ex Parte Application]*

The Hon. James V. Selna
Santa Ana, Courtroom 10C

SACC filed: January 4, 2018
Trial Date: February 19, 2019

DECLARATION OF JONATHAN D. MOSS

I, Jonathan D. Moss, declare as follows:

1. I am an attorney duly admitted to practice before this Court. I am a Special Counsel with Sheppard, Mullin, Richter & Hampton LLP, attorneys of record for Defendant Younique, LLC (“Younique”). I have personal knowledge of the facts stated herein, and if called as a witness, could and would testify competently thereto.

2. On February 14, 2018, Younique served document requests and special interrogatories on plaintiffs Megan Schmitt, Deana Reilly, Carol Orlowsky and Stephanie Miller Brun (collectively, “Plaintiffs”). On March 14, 2018, Plaintiffs served their written responses and objections to Younique’s document requests and special interrogatories. In total, Plaintiffs only produced *eight pages* of documents collectively among the four Plaintiffs (PL00001-PL00008), which consisted of two receipts, a chart and a letter.

3. On April 18, 2018, Younique served notices for the depositions of plaintiffs Schmitt, Reilly, Orlowsky and Miller Brun for May 1 and May 7-9, 2018, respectively.

4. On April 27, 2018, Plaintiffs served objections to each of the deposition notices “on the ground that the deposition cannot go forward on the date set due to the unavailability of Plaintiffs and their counsel.”

5. On or about May 4, 2018, I understand that Plaintiffs’ counsel, Alison Bernal, Esq., proposed to Younique’s counsel, Sascha Henry, Esq., that the parties enter into a stipulation to continue certain deadlines in the Scheduling Order. Younique’s counsel indicated that it would consider the request and asked that Plaintiffs’ counsel prepare a draft stipulation for review. Younique’s counsel also followed-up regarding dates for the depositions of the four Plaintiffs.

1 6. On May 15, 2018, Plaintiffs' counsel sent the draft stipulation for
2 review. Between May 15 and May 17, 2018, the parties negotiated the terms of the
3 stipulation and Plaintiffs filed the agreed-upon "Stipulation to Modify Scheduling
4 Order and Order on Jury Trial" on May 18, 2018 (the "Stipulation"). A true and
5 correct copy of the Stipulation (Dkt. 66) and Proposed Order thereon (Dkt. 66-1) is
6 attached hereto as "Exhibit A."

7 7. On May 29, 2018, the Court granted the Stipulation and entered
8 the Order. A true and correct copy of the "Order Granting Stipulation to Modify the
9 Scheduling Order" (Dkt. 67) is attached hereto as "Exhibit B."

10 8. Correspondence between the parties' counsel confirms that
11 counsel discussed that the extension contemplated in the Stipulation would apply to
12 specific depositions. A true and correct copy of relevant email correspondence
13 between Alison Bernal, Esq. (counsel for Plaintiffs), Sascha Henry, Esq. (counsel
14 for Younique) and me between May 8, 2018 and May 16, 2018, including
15 correspondence discussed above, is attached hereto as "Exhibit C."

16 9. Following entry of the Stipulation, the parties' counsel continued
17 to discuss the scheduling of Plaintiffs' depositions and a Rule 30(b)(6) deposition of
18 Younique, as contemplated in the Stipulation. A true and correct copy of relevant
19 email correspondence between Ms. Bernal, Ms. Henry and me between May 24,
20 2018 and May 30, 2018 is attached hereto as "Exhibit D."

21 10. As a result of the Stipulation, on June 4, 2018, Plaintiffs served a
22 Rule 30(b)(6) deposition notice of Younique. Plaintiffs noticed the deposition for
23 July 17, 2018 in Utah. On July 5, 2018, I understand that Younique's counsel
24 (Sascha Henry, Esq.) contacted Plaintiffs' counsel (Adam Gonnelli, Esq.) to meet
25 and confer regarding certain categories in the deposition notice. I understand that
26 Ms. Henry and Mr. Gonnelli continued to meet and confer between July 5 and July
27 17 regarding the topics and date of the deposition. The deposition is currently set to
28 go forward on July 27, 2018 in Utah.

1 11. With respect to the depositions of Plaintiffs, Plaintiffs' counsel
2 produced plaintiffs Brun, Orlowsky and Reilly for deposition on June 25-27, 2018,
3 respectively. During their depositions in late June, certain plaintiffs identified
4 additional documents responsive to Younique's document requests served in
5 February 2018 that were not include in Plaintiffs' eight-page document production
6 (some of which, according to deposition testimony, were apparently provided to
7 Plaintiffs' counsel, but not produced to Younique).

8 12. Both Ms. Henry and I have made multiple requests for a
9 deposition date for plaintiff Megan Schmitt. As of the time of this Declaration,
10 Plaintiff have not confirmed a date for Younique to take Ms. Schmitt's deposition.

11 13. On July 12, 2018, Plaintiffs' counsel noticed four individual
12 depositions of various Younique employees (Dixie Memmott, Whitney Goff,
13 Melanie Huscroft, Reggie Rappleye) to occur on July 24-July 26, 2018, served a
14 notice of deposition for a second Rule 30(b)(6) deposition of Younique for July 27,
15 2018, and also served a notice of subpoena to third-party Coyne Public Relations.
16 Younique's counsel served objections to the various notices on July 13, 2018 and
17 July 18, 2018, which asserted that the discovery was served well after the June 1,
18 2018 Discovery Cut-Off.

19 14. On July 17, 2018 at 3:21 p.m., Plaintiffs' counsel sent a draft
20 email that Plaintiffs proposed to send to Magistrate Judge John Early requesting a
21 pre-discovery motion conference concerning various purported discovery issues.
22 Plaintiffs requested that Younique send its positions to insert in the email by close of
23 business the next day.

24 15. As set forth in Exhibit 1 to the Declaration of Adam Gonelli, on
25 July 18, 2018 at 4:25 p.m., I responded: "We will try to get you Younique's
26 position with respect to your email by close of business today. But due to short
27 notice and scheduling issues, we may not be able to provide until tomorrow
28 morning." The scheduling issues referred to included that Younique's lead counsel,

1 Ms. Henry, was in meetings all day on July 17-18 and would be in a deposition on
2 July 19. I know this because I was copied on the email in which Ms. Henry
3 conveyed this to Mr. Gonnelli.

4 16. At 5:36 p.m. in the evening on July 18, Plaintiffs filed their *ex*
5 *parte* application and Ms. Bernal notified Younique's counsel that Younique must
6 file any opposition within 24 hours.

7 17. Later that evening, at 6:53 p.m., I provided Younique's position
8 statement to Plaintiffs' counsel for inclusion in the parties' joint email to Magistrate
9 Judge Early. The parties' joint email requests a conference with Judge Early. Ms.
10 Bernal sent the joint email to Judge Early's Chambers on the morning of July 19,
11 2018 and copied me on the email.

12
13 I declare under penalty of perjury under the laws of the United States
14 and the State of California and that the foregoing is true and correct.

15
16 Executed on January 19, 2018 at Los Angeles, California.

17
18
19 /s/ Jonathan D. Moss

20 JONATHAN D. MOSS

EXHIBIT A

**NYE, PEABODY, STIRLING, HALE
& MILLER, LLP**

Jonathan D. Miller (CA 220848)
Alison M. Bernal (CA 264629)

Jonathan@nps-law.com

33 West Mission St., Suite 201

Telephone: (805) 963-2345

Facsimile: (805) 563-5385

**CARLSON LYNCH SWEET
KILPELA & CARPENTER, LLP**

Todd D. Carpenter (CA 234464)

tcarpenter@carsonlynch.com

1350 Columbia Street, Ste. 603

Telephone: (619) 762-1900

Facsimile: (619) 756-6991

Attorneys for Plaintiffs and the Class

[Additional Counsel Listed on Signature Page]

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MEGAN SCHMITT, DEANA
REILLY, CAROL ORLOWSKY, and
STEPHANIE MILLER BRUN,
individually and on behalf of
themselves and all others similarly
situated,

Plaintiffs,

v.

YOUNIQUE, LLC,

Defendant.

Case No. 8:17-cv-01397-JVS-JDE

**STIPULATION TO MODIFY
SCHEDULING ORDER AND ORDER
ON JURY TRIAL**

The Hon. James V. Selna
Santa Ana, Courtroom 10C

Complaint Filed: 8/17/17

Trial Date: 2/19/19

I. INTRODUCTION

The Parties to this action, through their undersigned counsel, submit the following stipulation to modify the scheduling order entered by this Court on

1 December 11, 2017 (Dkt. 56 & 56-1) and the Order re: Jury Trial (Dkt. 57). The
2 Parties are requesting this extension in order to permit the parties to continue
3 discovery and schedule and complete certain out-of-state depositions, followed by a
4 good faith effort at private mediation.

5 The Parties submit this request to promote orderly case management. For the
6 following reasons, the Parties respectfully request this Court enter an order
7 consistent with the Parties' stipulation.

8 **II. RECITALS**

9 1. Whereas, Plaintiff Megan Schmitt personally served her Class Action
10 Complaint on August 17, 2017;

11 2. Whereas, consistent with the Stipulation filed on September 26, 2017
12 [Dkt. 39], Plaintiff Schmitt and three additional named Plaintiffs filed their First
13 Amended Class Action Complaint on October 13, 2017;

14 3. Whereas the Court held a status conference on December 11, 2017,
15 where the Court set the following dates:

16 Last date to file motion for class certification – June 1, 2018

17 Last date to complete private mediation – June 29, 2018

18 Initial Disclosure of Experts Not Later Than – August 1, 2018

19 Hearing on Plaintiffs' motion for class certification – August 20, 2018

20 Rebuttal Disclosure of Experts Not Later Than – October 1, 2018

21 Expert Discovery Cut-Off – December 15, 2018

22 Law and Motion Cut-Off – January 7, 2019 (with motions to be filed
23 and served not later than December 4, 2018) (Dkt. 56 & 56-1);

24 4. Whereas following the status conference, the Court entered an Order
25 for Jury Trial Setting the following dates:

26 Discovery cut-off – June 1, 2018

27 Pre-trial conference – February 4, 2019, at 11:00 a.m.

1 Jury Trial – February 19, 2019, at 8:30 a.m.

2 5. Whereas the Parties have worked diligently to exchange and respond to
3 written discovery;

4 6. Whereas, on April 18, 2018, Defendant Younique, LLC served
5 deposition notices to take the depositions of Plaintiffs Megan Schmitt, Deana Reilly,
6 Carol Orlowsky and Stephanie Miller Brun on May 1, 2018 and May 7, 2018, May
7 8, 2018 and May 9, 2018, respectively;

8 7. Whereas, on April 27, 2018, Plaintiffs' counsel served objections to the
9 deposition notices asserting that the Plaintiffs' depositions could not go forward due
10 to unavailability of Plaintiffs and their counsel;

11 8. Whereas the Parties are currently working with each other on a
12 deposition schedule for Plaintiffs' depositions and a third-party deposition (Lori
13 DeBell) that takes into account all counsels' travel and trial calendars, given that
14 several Plaintiffs and the third-party deponent reside out of state;

15 9. Whereas the Parties respectfully request additional time to allow them
16 to continue working together to complete fact discovery and thereafter attend a
17 meaningful private mediation, as previously ordered by this Court.

18 10. In light of the foregoing, the parties stipulate that there is GOOD
19 CAUSE to continue certain case management deadlines and the parties mutually
20 seek an Order from the Court modifying the case managements schedule as follows:

21

<i>Case Management Event:</i>	<i>Prior-Operative Date-Deadline:</i>	<i>NEW Date- Deadline:</i>
Last day to schedule to commence the depositions of Plaintiffs Megan Schmitt, Deana Reilly, Carol Orlowsky and Stephanie Miller Brun and third-party Lori DeBell, and Rule 30(b)(6) deposition of Defendant Younique, LLC	May 24, 2018	July 30, 2018

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<i>Case Management Event:</i>	<i>Prior-Operative Date-Deadline:</i>	<i>NEW Date-Deadline:</i>
Last date for Plaintiffs to file motion for class certification	June 1, 2018	August 1, 2018
Last date to complete private mediation	June 29, 2018	August 31, 2018
Last date for Defendant to file opposition to motion for class certification	TBD	September 21, 2018
Last date for Plaintiffs to file reply in support of motion for class certification	TBD	October 5, 2018
Hearing on Plaintiffs' motion for class certification	August 20, 2018, at 1:30 p.m.	October 15, 2018, at 1:30 p.m.

11. Whereas Plaintiffs agree they will not seek leave to amend to identify additional named Plaintiffs.

IT IS SO STIPULATED.

Dated: May 18, 2018

NYE, PEABODY, STIRLING, HALE & MILLER, LLP

By: /s/

Jonathan D. Miller, Esq.
Alison M. Bernal, Esq.

Dated: May 18, 2018

CARLSON LYNCH SWEET
KILPELA & CARPENTER, LLP

By: /s/

Ed Kilpela, Esq.

Dated: May 18, 2018

THE SULTZER LAW GROUP P.C.

By: /s/

Adam Gonnelli, Esq.

Signatures continued on next page

1
2 Dated: May 18, 2018

WALSH, LLC

3 By: /s/
4 Bonner Walsh, Esq.

5 *Attorneys for Plaintiffs and the Class*

6
7 Dated: May 18, 2018

SHEPPARD, MULLIN, RICHTER &
HAMPTON, LLP

9 By: /s/
10 Sascha Henry, Esq.
Jonathan D. Moss, Esq.
11 Abby H. Meyer, Esq.

12 *Attorneys for Defendant, Younique, LLC*

13
14 Local Rule 5-4.3.4 Certification: I hereby attest that all other signatories
15 listed, on whose behalf this filing is submitted, concur in the filing's content and
16 have authorized this filing.

/S/

17 Alison M. Bernal
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MEGAN SCHMITT, DEANA
REILLY, CAROL ORLOWSKY, and
STEPHANIE MILLER BRUN,
individually and on behalf of
themselves and all others similarly
situated,

Plaintiffs,

v.

YOUNIQUE, LLC,

Defendant.

Case No. 8:17-cv-01397-JVS-JDE

**[PROPOSED] ORDER GRANTING
STIPULATION TO MODIFY
SCHEDULING ORDER**

The Hon. James V. Selna,
Santa Ana, Courtroom 10C

Complaint Filed: 8/17/17
Trial Date: February 19, 2019

[PROPOSED] ORDER

The Court, having considered the parties' stipulation and, and finding good
cause to modify the scheduling order, hereby orders:

The following dates and deadlines previously ordered by the Court on
December 11, 2017 (minute order, Dkt. 56 & 56-1), and December 12, 2017 (Order
on Jury Trial, Dkt. 57) are vacated, and shall be modified as follows:

<i>Case Management Event:</i>	<i>Prior-Operative Date-Deadline:</i>	<i>NEW Date- Deadline:</i>
Last day to schedule to commence the depositions of Plaintiffs Megan Schmitt, Deana Reilly, Carol Orlowsky and Stephanie Miller Brun and third-party Lori DeBell, and Rule 30(b)(6) deposition of Defendant Yunique, LLC	May 24, 2018	July 30, 2018
Last date for Plaintiffs to file motion for class certification	June 1, 2018	August 1, 2018

<i>Case Management Event:</i>	<i>Prior-Operative Date-Deadline:</i>	<i>NEW Date-Deadline:</i>
Last date to complete private mediation	June 29, 2018	August 31, 2018
Last date for Defendant to file opposition to motion for class certification	TBD	September 21, 2018
Last date for Plaintiffs to file reply in support of motion for class certification	TBD	October 5, 2018
Hearing on Plaintiffs' motion for class certification	August 20, 2018, at 1:30 p.m.	October 15, 2018, at 1:30 p.m.

Except as otherwise stated herein, the other dates and deadlines in the December 11, 2017 Minute Order (Dkt. 56 & 56-1) and Order re: Jury Trial (Dkt. 57) shall continue to apply.

IT IS SO ORDERED.

Dated: _____, 2018

HON. JAMES V. SELNA
UNITED STATES DISTRICT JUDGE

EXHIBIT B

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MEGAN SCHMITT, DEANA
REILLY, CAROL ORLOWSKY, and
STEPHANIE MILLER BRUN,
individually and on behalf of
themselves and all others similarly
situated,

Plaintiffs,

v.

YOUNIQUE, LLC,

Defendant.

Case No. 8:17-cv-01397-JVS-JDE

**ORDER GRANTING
STIPULATION TO MODIFY
SCHEDULING ORDER**

The Hon. James V. Selna,
Santa Ana, Courtroom 10C

Complaint Filed: 8/17/17
Trial Date: February 19, 2019

ORDER

The Court, having considered the parties' stipulation and, and finding good
cause to modify the scheduling order, hereby orders:

The following dates and deadlines previously ordered by the Court on
December 11, 2017 (minute order, Dkt. 56 & 56-1), and December 12, 2017 (Order
on Jury Trial, Dkt. 57) are vacated, and shall be modified as follows:

<i>Case Management Event:</i>	<i>Prior-Operative Date-Deadline:</i>	<i>NEW Date- Deadline:</i>
Last day to schedule to commence the depositions of Plaintiffs Megan Schmitt, Deana Reilly, Carol Orlowsky and Stephanie Miller Brun and third-party Lori DeBell, and Rule 30(b)(6) deposition of Defendant Younique, LLC	May 24, 2018	July 30, 2018
Last date for Plaintiffs to file motion for class certification	June 1, 2018	August 1, 2018

<i>Case Management Event:</i>	<i>Prior-Operative Date-Deadline:</i>	<i>NEW Date- Deadline:</i>
Last date to complete private mediation	June 29, 2018	August 31, 2018
Last date for Defendant to file opposition to motion for class certification	TBD	September 21, 2018
Last date for Plaintiffs to file reply in support of motion for class certification	TBD	October 5, 2018
Hearing on Plaintiffs' motion for class certification	August 20, 2018, at 1:30 p.m.	October 15, 2018, at 1:30 p.m.

Except as otherwise stated herein, the other dates and deadlines in the December 11, 2017 Minute Order (Dkt. 56 & 56-1) and Order re: Jury Trial (Dkt. 57) shall continue to apply.

IT IS SO ORDERED.

Dated: May 29, 2018



HON. JAMES V. SELNA
UNITED STATES DISTRICT JUDGE

EXHIBIT C

Jonathan Moss

From: Alison Bernal <alison@nps-law.com>
Sent: Wednesday, May 16, 2018 4:28 PM
To: Jonathan Moss
Cc: Sascha Henry
Subject: RE: Schmitt v. Younique: Request for Stipulated Continuance of Discovery Cut-off, Mediation Cut-off and Class Certification Briefing Deadlines

Thank you for that clarification. Yes, I intended it to mean the 30(b)(6) deposition(s).

Alison M. Bernal | Partner | Nye, Peabody, Stirling, Hale & Miller, LLP
33 West Mission Street, Suite 201 | Santa Barbara, CA 93101
T: 805.963.2345 | F: 805.563.5385
E: Alison@nps-law.com | W: www.nps-law.com

From: Jonathan Moss [<mailto:JMoss@sheppardmullin.com>]
Sent: Wednesday, May 16, 2018 4:27 PM
To: Alison Bernal
Cc: Sascha Henry
Subject: RE: Schmitt v. Younique: Request for Stipulated Continuance of Discovery Cut-off, Mediation Cut-off and Class Certification Briefing Deadlines

Alison,

Sascha is traveling at the moment, so I wanted to respond with a point of clarification. Your additional edit to the stipulation revises the first row of the table in Paragraph 8 to add "and depositions of Defendants." But there is only one Defendant (Younique LLC). When you say Defendants, do you mean to refer to a Rule 30(b)(6) deposition of Younique, LLC?

Jonathan Moss
213.617.5504 | direct
213.443.2769 | direct fax
JMoss@sheppardmullin.com | [Bio](#)

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From: Alison Bernal [<mailto:alison@nps-law.com>]
Sent: Wednesday, May 16, 2018 3:16 PM
To: Sascha Henry <SHenry@sheppardmullin.com>
Cc: Jonathan Moss <JMoss@sheppardmullin.com>
Subject: RE: Schmitt v. Younique: Request for Stipulated Continuance of Discovery Cut-off, Mediation Cut-off and Class Certification Briefing Deadlines

Sascha,

Thanks for getting the stipulation back to us. Most of the changes look fine. We had originally pushed out trial dates, too, simply because we were requesting continuances of other dates, but we are fine with leaving the trial and associated dates as is. The only additional edit I made to the attached stipulation is to include Defendant's deposition(s) in the first row of the chart, which will also be completed by the proposed July 30th date. Let me know if these changes look okay, and I can make a clean version of the stipulation, and make sure the proposed order conforms to the revised stipulation.

As to Plaintiffs' depositions, we have contacted all our clients, and followed up again today for available deposition dates, and will continue efforts to get agreeable dates.

I apologize for not responding on the Lori DeBell issue. We do not represent her, and therefore were not authorized to accept service on her behalf. Thank you for sending along the deposition notice. I believe the noticed date should work for us, but am conferring with my co-counsel on that issue.

Alison M. Bernal | Partner | Nye, Peabody, Stirling, Hale & Miller, LLP
33 West Mission Street, Suite 201 | Santa Barbara, CA 93101
T: 805.963.2345 | F: 805.563.5385
E: Alison@nps-law.com | W: www.nps-law.com

From: Sascha Henry [<mailto:SHenry@sheppardmullin.com>]

Sent: Wednesday, May 16, 2018 1:51 PM

To: Alison Bernal <alison@nps-law.com>

Cc: Jonathan Moss <JMoss@sheppardmullin.com>

Subject: RE: Schmitt v. Younique: Request for Stipulated Continuance of Discovery Cut-off, Mediation Cut-off and Class Certification Briefing Deadlines

Hi Alison,

Thanks for sending your draft stipulation. We have reviewed it and attach a redline version for your consideration. I am concerned that the version you sent us may not be granted because it extends almost all dates without much discussion as to why. We are willing to stipulate for plaintiffs to have more time on the class certification motion filing deadline and the mediation, though for a slightly shorter period than plaintiffs proposed. We are also willing to extend the discovery cutoff to give plaintiffs more time to appear for their depositions which we noticed in April. We haven't heard from you about any other discovery that plaintiffs need to complete other than appearing for their depositions. The time to propound written discovery has already passed, and the last day to commence depositions is May 24. Your draft stipulation had a few other dates in it that we think are incorrect, so we made a few changes there, including citations to the order so you can see where we obtained those dates. We also added a provision stating that plaintiffs agree they will not seek leave to amend to add additional named plaintiffs.

Also, please recall that last week, I also reiterated our request that you provide the proposed dates for plaintiffs' depositions as part of this process. We request that you send those dates along so they are confirmed as part of the process relating to this stipulation. We had also asked last week that you let us know whether you represent Lori DeBell. Upon not hearing from you, we issued a subpoena and she has been served. A notice of her deposition and the subpoena is attached with our redline of the draft stipulation for your reference. As with plaintiffs' depositions, we are willing to work with you on dates if the noticed date does not work for you. Also, please let us know if you will be representing her.

We are happy to discuss the draft stipulation further with you to reach a resolution on this.

Thanks,

Sascha

Sascha Henry

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From: Alison Bernal [<mailto:alison@nps-law.com>]
Sent: Tuesday, May 15, 2018 9:16 AM
To: Sascha Henry <SHenry@sheppardmullin.com>
Cc: Jonathan Moss <JMoss@sheppardmullin.com>
Subject: RE: Schmitt v. Younique: Request for Stipulated Continuance of Discovery Cut-off, Mediation Cut-off and Class Certification Briefing Deadlines

Sascha,

I apologize for the delay in getting this to you. I have attached a draft stipulation and proposed order. I put in date approximately 90 days out, and filled in some other dates we were supposed to stipulate to (as to the briefing on class cert). Let me know if this looks okay, or you have any proposed changes. Thanks!

Alison M. Bernal | Partner | Nye, Peabody, Stirling, Hale & Miller, LLP
33 West Mission Street, Suite 201 | Santa Barbara, CA 93101
T: 805.963.2345 | F: 805.563.5385
E: Alison@nps-law.com | W: www.nps-law.com

From: Sascha Henry [<mailto:SHenry@sheppardmullin.com>]
Sent: Tuesday, May 08, 2018 2:41 PM
To: Alison Bernal <alison@nps-law.com>
Cc: Jonathan Moss <JMoss@sheppardmullin.com>
Subject: Schmitt v. Younique: Request for Stipulated Continuance of Discovery Cut-off, Mediation Cut-off and Class Certification Briefing Deadlines

Hi Alison –

I'm following up regarding our conversation last Friday in which plaintiffs proposed that the parties stipulate to a 90-day continuance of the discovery cut-off, mediation cut-off and class certification briefing deadlines. We are still considering the request, but in hopes we can reach an agreement, we suggest you prepare a draft stipulation you are contemplating and send it to us in Word to provide to our client in case our client proposes shorter extensions or different deadlines.

As part of working through the scheduling issues, it would be helpful to know if you have proposed dates yet for the four plaintiffs' depositions here in Los Angeles. We also wished to depose Lori DeBell, and request that you let us know whether plaintiffs' counsel will accept service of a subpoena.

Thank you, Alison. Also, I will be in deposition tomorrow, so please feel free to send the stipulation draft to Jonathan who can review and transmit to the client to keep the process moving along.

Sascha

Sascha Henry

213.617.5562 | direct

213.443.2878 | direct fax

SHenry@sheppardmullin.com | [Bio](#)

SheppardMullin

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Attention: This message is sent by a law firm and may contain information that is privileged or confidential. If you received this transmission in error, please notify the sender by reply e-mail and delete the message and any attachments.

EXHIBIT D

Jonathan Moss

From: Jonathan Moss
Sent: Wednesday, May 30, 2018 6:28 PM
To: 'Alison Bernal'
Cc: Sascha Henry
Subject: RE: Schmitt v. Younique- Dates for Plaintiffs' Depositions

Alison,

We anticipate a full day for each of the plaintiffs' depositions. We propose taking the depositions in our Los Angeles office, consecutively, on June 19, 20, 21 and 22, which would minimize travel on your end. Please confirm if those dates are acceptable.

With respect to the 30(b)(6) deposition of Younique, the deposition will take place in Utah. We believe it is too early to provide specific available dates for the 30(b)(6) deposition at this point without the deposition notice as the topics will impact the particular deponent(s) who would appear. But, we will work with you on scheduling a convenient time for that deposition when we have more information.

We look forward to hearing from you regarding plaintiffs' depositions. Thanks.

Jonathan Moss
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From: Alison Bernal [<mailto:alison@nps-law.com>]
Sent: Tuesday, May 29, 2018 10:58 AM
To: Jonathan Moss
Cc: Sascha Henry
Subject: RE: Schmitt v. Younique- Dates for Plaintiffs' Depositions

Jonathan and Sascha,

Following up on the below email, how many days do you anticipate the plaintiffs' depositions taking? Our thought is that we get two days on calendar to complete the depositions, in Los Angeles, sometime in mid-June to July. The only two days that cannot work for our clients and counsel are July 12-13. We would propose the last week in June, but again, if those dates are not available for you, please let me know dates that do work. Also, if you need more than two days, that is fine as well, but our preference for counsel and our clients is to keep the dates close together to minimize travel.

Separately, we will be noticing a 30(b)(6) deposition. We are currently working on the topics, and can get those to you shortly. In the meantime, we want to get the ball rolling on agreeing to a date for that deposition(s). Rather than

unilaterally setting a date, are there specific dates that work for you and your client? Also, will that deposition take place in Utah? Thank you in advance,

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From: Alison Bernal
Sent: Friday, May 25, 2018 11:20 AM
To: 'Jonathan Moss' <JMoss@sheppardmullin.com>
Cc: Sascha Henry <SHenry@sheppardmullin.com>
Subject: RE: Schmitt v. Younique- Dates for Plaintiffs' Depositions

Jonathan,

Our client's schedules are fairly open in June and July, so with enough notice, we can give them the proposed dates, and they should hopefully work. Why don't we work on a deposition schedule for both plaintiffs' and defendant's depositions? We would like to stack the depositions up as much as possible to alleviate excessive travel for my co-counsel. With that in mind, are there a series of dates in June and/or July that work with you?

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From: Jonathan Moss [<mailto:JMoss@sheppardmullin.com>]
Sent: Thursday, May 24, 2018 4:11 PM
To: Alison Bernal <alison@nps-law.com>
Cc: Sascha Henry <SHenry@sheppardmullin.com>
Subject: Schmitt v. Younique- Dates for Plaintiffs' Depositions

Alison,

Do you have any update on proposed dates for the four plaintiffs' depositions in Los Angeles? Please let us know when you have a chance. Thank you.

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